

SENATE BILL No. 331

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-42-3-1.5; IC 35-42-3-4.

Synopsis: Unlawful visitation interference. Provides that a person who obstructs child visitation commits a Class C misdemeanor. Provides that the offense is a Class B misdemeanor if the person has a prior unrelated conviction.

Effective: July 1, 2004.

Mrvan

January 12, 2004, read first time and referred to Committee on Criminal, Civil and Public Policy.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 331

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-42-3-1.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2004]: **Sec. 1.5. As used in this chapter, "obstructs" means the**
4 **deprivation of the:**

5 (1) **full benefit; or**
6 (2) **entire duration;**
7 **of visitation.**

8 SECTION 2. IC 35-42-3-4 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) A person who
10 knowingly or intentionally:

11 (1) removes another person who is less than eighteen (18) years
12 of age to a place outside Indiana when the removal violates a
13 child custody order of a court; or
14 (2) removes another person who is less than eighteen (18) years
15 of age to a place outside Indiana and violates a child custody
16 order of a court by failing to return the other person to Indiana;
17 commits interference with custody, a Class D felony. However, the



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offense is a Class C felony if the other person is less than fourteen (14) years of age and is not the person's child, and a Class B felony if the offense is committed while armed with a deadly weapon or results in serious bodily injury to another person.

(b) A person who with the intent to deprive another person of custody or visitation rights:

(1) knowingly or intentionally takes and conceals; or

(2) knowingly or intentionally detains and conceals;

a person who is less than eighteen (18) years of age commits interference with custody, a Class C misdemeanor. However, the offense is a Class B misdemeanor if the taking and concealment, or the detention and concealment, is in violation of a court order.

(c) A person who knowingly or intentionally obstructs court ordered visitation between a noncustodial parent and a child (as defined in IC 35-47-10-3) commits obstruction of custody, a Class C misdemeanor. However, the offense is a Class B misdemeanor if the person has a prior unrelated conviction under this subsection.

(d) With respect to a violation of ~~this section~~, **subsection (a) or (b)**, a court may consider as a mitigating circumstance the accused person's return of the other person in accordance with the child custody order within seven (7) days after the removal.

~~(d)~~ **(e)** The offenses described in ~~this section~~ **subsection (a) or (b)** continue as long as the child is concealed or detained, or both.

~~(e)~~ **(f)** If a person is convicted of an offense under this section, a court may impose against the defendant reasonable costs incurred by a parent or guardian of the child because of the taking, detention, or concealment of the child **or the obstruction of custody.**

SECTION 3. [EFFECTIVE JULY 1, 2004] IC 35-42-3-4, as amended by this act, applies only to offenses committed after June 30, 2004.

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